

MINUTES

KEY WEST BIGHT MANAGEMENT DISTRICT BOARD MEETING

OLD CITY HALL, 510 GREENE STREET

APRIL 11, 2012

A regular meeting of the Key West Bight Management District Board of the City of Key West, Florida, was held in Commission Chambers, Old City Hall, 510 Greene Street, on Wednesday, April 11, 2012.

The Chairman called the meeting to order at 9:00 a.m.

Answering roll call were Board Members Jermy Ashby, Paul McGrail, Kathryn Ovide, Dan Probert, Michael Wilson and Chairman Michael Knowles presiding.

Board Member Jimmy Lane arrived at 9:01 a.m.

Also present were Chief Assistant City Attorney Larry Erskine, Key West Bight Marine Manager Mark Tait, Port Operations Manager John Castro, Senior Property Manager Marilyn Wilbarger and Clerk of the Board Sue Harrison.

Others in attendance were Jack Anderson from the Tenants Association.

The pledge of allegiance to the flag of the United States of America was given by all present.

CHANGES TO THE AGENDA:

It was moved by Ms. Ovide and seconded by Mr. Probert to approve the agenda.

The Chairman asked for objections and seeing none, the agenda was accepted without objection.

APPROVAL OF MINUTES:

- 1) March 14, 2012 (Regular)

It was moved by Mr. Probert and seconded by Mr. Wilson to approve the minutes of March 14, 2012.

The Chairman asked for objections and seeing none, the minutes were approved without objection.

ACTION ITEMS:

2) Request to Reconsider HARC Archway Sign Application

It was moved by Mr. Wilson and seconded by Ms. Ovide to reconsider the item. There were no objections.

The following people spoke on the matter:

Ed Swift, Historic Tours of America
Marilyn Wilbarger

It was moved by Mr. Wilson and seconded by Mr. Ashby, under discussion, to approve as amended regarding the placement of the sign with the new wording "Fort Jefferson Museum" as shown in the drawing.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: Board Member McGrail

(A copy of the drawing as mentioned in the motion above is attached hereto and made a part of these minutes.)

Chairman Knowles requested Ms. Wilbarger to assist in the area and rename the pier Museum Pier at the Historic Bight. He also mentioned the Turtle Museum and the lack of signage in that area. Ms. Wilbarger stated they were continuing to work on the complete re-signage program as

part of the common area enhancement plan. As they go through that process they will incorporate something to identify that particular pier and other areas of importance.

3) Marina Signage Standard

Ms. Wilbarger described the standardization of signage at the Bight for the Board. She said the HARC Planner toured the docks and made a recommendation as to what would be appropriate there and what would be approved. Ms. Wilbarger stated each tenant would be allowed two signs per slip; one sign hanging either perpendicular or parallel to their slip space (depending on where the tenant is located) on a pole with a light naming their business, the second sign would be attached vertically to the pole itself which would provide details of what they offer; i.e., half day sails or snorkeling, etc. Existing signs would need to be brought into compliance over a period of time.

Mr. Tait stated the majority of signs were not permitted through HARC approval. The dockage agreement leases require management approval for signs. Mr. Erskine confirmed the leases require management approval. Signs should be approved by both staff and HARC. The Bight is located in the Historic section and HARC has jurisdiction in the area.

Ms. Wilbarger informed the Board that upon each HARC sign application request she is now notified by the HARC Planner. Ms. Ovide asked that a letter be sent to the HARC Board stating this Board has implemented a signage policy and expect that any future signs comply with this policy. Ms. Wilbarger added that since last summer, when there has been any signage request at the Bight, she has informed them that work on standardized signage was in progress and they may want to wait until this has been established as anything they do will have to come into compliance. The same information had been given to everyone.

The following person spoke on the matter:

Albert Tropea, 631 Caroline Street

There was discussion regarding the materials used for the signs that would not limit creativity. They may restrict the use of metal and corrosive materials. Policy would state that signs be removed in case of an imminent storm.

It was moved by Mr. McGrail to postpone the item. The Chairman asked for a second, seeing none the motion failed.

It was moved by Mr. Probert and seconded by Mr. Lane to approve the item with inclusion in the policy that signs will be removed during a storm event and limiting the material of the signs to composite material or wood. The policy would be adopted today and become effective in six months.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, McGrail, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

Ms. Ovide asked that Mr. Tait work with tenants to restore signs that had been removed.

4) Double Decker Request to Sell Business

Mr. Tait introduced the item. The tenant has made a request to sell his business minus his vessel. This is allowable under the current dockage agreement with Bight Board approval. Staff recommends approval.

It was moved by Ms. Ovide and seconded by Mr. McGrail to approve the item as presented.

Discussion ensued regarding the proposed buyer. Mr. Tait stated potential buyer(s) were current tenants. He did not know who the buyer is. This would be an assignment of lease.

After discussion Ms. Ovide withdrew her motion to approve until they know who the buyer will be.

It was moved by Ms. Ovide and seconded by Mr. McGrail to postpone the item pending confirmation of a buyer.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, McGrail, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

DISCUSSION ITEM:

5) Commercial Leases at Key West Bight Docks

Mr. McGrail recused himself from the item and stepped down from the dais.

Mr. Wilson stated he had been contacted by the Tenants Association and they asked that he place the item on the agenda as they wanted to address the issue.

The following people spoke on the matter:

Mitch Cook, 24171 Overseas Highway, Summerland Key, Attorney for the Key West Bight Preservation Board, Inc.
Carla Bellenger, 201 William Street, 2627 Staples Avenue
Steve Talbott, 13020 Grinnell Street
Albert Tropea, 631 Carolyn Street, Little Torch
Tom Stroh, 611 Grinnell Street

Mr. Erskine stated they were not able to grant a lease for more than one year as this would violate the conditions with the City's submerged land lease.

Chairman Knowles asked Ms. Wilbarger to address the insurance issue. Ms. Wilbarger stated when they started to draft a new document they contacted the City's Risk Management Department who in turn contacted the underwriters to establish what they feel is a reasonable amount of insurance

to protect both the tenants and the City. Ms. Wilbarger would invite them to the next meeting to answer any questions.

Chairman Knowles asked about the deposits from one month to a two month deposit. Ms. Wilbarger stated if there was any legal action initiated it could not be completed within a 30-day period. It could take two to three months to take possession and one month deposit is not adequate to protect the City's interest.

Chairman Knowles asked about the safety issue. Mr. Erskine stated without direction from the Board he has not analyzed the items presented by Mr. Cook. His charge is to protect the interest of the City. The indemnity clause in the documents is standard language which he is very reluctant to alter.

They would put off discussion at this time regarding sale of the business without the sale of the vessel.

Ms. Ovide would like to leave on the table the discussion regarding the two month deposit requirement until they have more information about the insurance issue.

The Board agreed that the item should not come before the City Commission until their June meeting so this Board would have time to review the additional information that will be presented at the next meeting.

Ms. Ovide made a motion that they revisit the insurance requirement and make it an action item at the May Bight Board Meeting and request that the City postpone consideration of it until June, 2012. Mr. Probert seconded the motion.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

Recused: Board Member McGrail

Mr. Erskine confirmed the Board has not taken final action on this item but have directed staff to bring it back as an Action Item for the next meeting to include additional information on the insurance so they can take final action at that time.

Ms. Wilbarger confirmed the month-to-month lease is still in place and available to the tenants. Any new requirements would still need to be observed.

REPORTS:

6) Manager's Report – March 2012 Monthly Report

Ms. Wilbarger reported the Waterfront Brewery project is moving forward. The item had been postponed at the last Planning Board meeting. A sound test will be conducted this week from the roof top. The structural repairs are proceeding and new windows and doors will be installed. A press release has been issued regarding the Wyland murals on the building and he will be coming back for restoration work. The structural repairs should be completed within 120 days. After Planning Board approval a lease will be brought before this Board for approval and then CRA approval. Interior construction would begin after that for approximately nine months. Ms. Wilbarger was hoping for a spring 2013 opening.

7) Accounts Receivable Report

There were no comments other than the report looked very good.

8) Tenants' Association Report

Mr. Anderson, Key West Bight Preservation Association, reported on the new stairway adjacent to the Waterfront Market near the Western Union, there seemed to be some problem with people stumbling on the stairs. He asked if this could be looked into to resolve any problems.

Mr. Anderson also read from a newspaper article from 1993 about how the Preservation Association had been established.

9) Old Business

Ms. Wilbarger commented on the Harbor Walk signage for the ferry passengers. She stated the City is about to issue an RFP for a Landscape Architect. Once that firm is identified they would be able to task individual projects, such as the sign, under an overall contract to allow them to move this forward in addition to all the landscaping they need done. Ms. Wilbarger had also met with Bruce Neff who is installing the Historic Markers throughout the City. Mr. Neff has agreed to work on a walking tour around the historic seaport. Ms. Wilbarger is also working with Reef Relief on signage and landscaping. Mr. Castro has been working on the brick and bike racks on Lazy Way.

Ms. Wilbarger reported that Mr. Wilkins had contacted the Cale Parking Machine Company and the indication was the charge per hour is a programming issue that could be modified per our request. Mr. Lane requested this item come back before the Board as an Action Item.

Mr. Ashby asked if Mr. Sweets from the Key West Wildlife Center would be providing signage regarding PVC Fish Trap Shoots and Fish Carcasses at the Bight. Mr. Tait would follow up.

PUBLIC COMMENTS:

There were no comments from the public.

BOARD COMMENTS

Mr. McGrail expressed his thoughts on the commercial lease issue.

Ms. Ovide asked about the by-laws for this Board. Mr. Erskine stated this Board follows the Ordinance that created the Board. Ms. Ovide was provided a copy of the Ordinance from the Clerk.

Ms. Ovide asked about conflict of interest. Mr. Erskine responded this Board handles this similar to

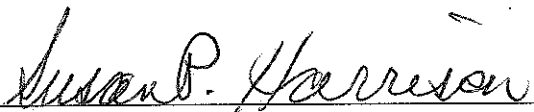
the Commission in that the member steps down from the dais and must complete the required form.

Mr. Lane commented he does visit the Bight property several times a week and the area looks better each time and he can see improvements. He said the staff is doing a great job.

Mr. Probert commented that discussion items were not written down in the minutes. He said he didn't see enough summary in the minutes.

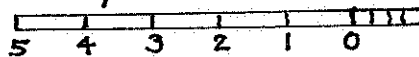
ADJOURNMENT:

It was moved by Mr. Probert and seconded by Mr. Wilson to adjourn. There being no further business the Chairman adjourned the meeting at 10:47 a.m.


Susan P. Harrison, CMC, Clerk of the Board
Senior Deputy City Clerk



Scale $\frac{1}{2}'' = 1'0''$



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME McGrail, Paul		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Key West Bight Management District Board	
MAILING ADDRESS 328 Simonton Street		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Key West	COUNTY Monroe	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED April 11, 2012		NAME OF POLITICAL SUBDIVISION: City Of Key West	
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Paul McGrail, hereby disclose that on April 11, 20 12 :

(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Discussion Item: Commercial Leases at Key West Bight Docks

Date Filed

4/11/2012
April 11, 2012

Signature

Paul McGrail

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.